

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: AKORN HOLDING COMPANY LLC, <i>et al.</i> , ¹ Debtors.	: : : : : :	Chapter 7 Case No.: 23-10253 (KBO) (Jointly Administered)
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**LIMITED OBJECTION AND JOINDER OF E.L. PRUITT CO. TO ARGO PARTNERS,
II LLC’S OBJECTION TO MOTION OF GEORGE L. MILLER, CHAPTER 7
TRUSTEE, FOR AN ORDER AUTHORIZING FIRST DISTRIBUTION OF FUNDS TO
HOLDERS OF ALLOWED PRIORITY CLAIMS UNDER SECTION 507(a)(4) OF THE
BANKRUPTCY CODE AND GRANTING RELATED RELIEF**

E.L. Pruitt Co. (“**Pruitt**”), by and through its undersigned counsel, hereby files its limited objection and joinder (the “**Joinder**”) to *Argo Partners II, LLC’s Objection to Motion of George L. Miller, Chapter 7 Trustee, for an Order Authorizing First Distribution of Funds to Holders of Allowed Priority Claims Under Section 507(a)(4) of the Bankruptcy Code and Granting Related Relief* [ECF No. 865] (the “**Objection**”). In support of its Joinder, Pruitt respectfully states as follows:

RELEVANT BACKGROUND

1. Pruitt is a mechanical contracting company in Illinois that provides HVAC, plumbing and piping systems.
2. Between February 3, 2023 and February 20, 2023, Akorn Operating Company, LLC (“**Akorn**”) contracted with Pruitt for Pruitt to furnish, repair, supply and install HVAC,

¹ Debtors in these chapter 7 cases, along with the last four digits of their federal tax identification numbers, and cases numbers are Akorn Holding Company LLC (9190), Case No. 23-10253 (KBO) (“**Akorn Holding**”); Akorn Intermediate Company LLC (6123), Case No. 23-10254 (KBO) (“**Akorn Intermediate**”); and Akorn Operating Company LLC (6184), Case No. 23- 10255 (“**Akorn Operating**” and collectively, “**Debtors**”). Debtors’ headquarters is located at 5605 CenterPoint Court, Gurnee, IL 60031.

plumbing and other services and materials at three locations owned by Akorn in Decatur, Illinois (140 and 150 South Wyckles, Decatur, IL and 1222 W. Grand Avenue, Decatur, IL) (the “**Decatur Facilities**”), which services were necessary to preserve and improve the value of the properties in the amount of \$426,703.00.

3. On March 27, 2023, due to Akorn’s failure to pay for the work performed, Pruitt filed a mechanics’ lien pursuant to the Illinois Mechanics’ Lien Act, 770 ILCS 60/0.01, *et seq.*, and 11 U.S.C. § 547(e)(2)(a) and 11 U.S.C. § 362(b)(3) on the Decatur Facilities where Pruitt performed work (the “**Mechanics’ Lien**”). The Mechanics’ Lien was recorded with the Macon County Recorder on March 31, 2023.

PROCEDURAL HISTORY

4. On February 23, 2023 (the “**Petition Date**”), the Debtors filed voluntary petitions for relief under chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware.

5. On or about the Petition Date, the Office of the United States Trustee appointed the Trustee for the estates of the Debtors.

6. On May 1, 2023, the Trustee filed his Motion seeking approval of the Trustee’s proposed Sharing Agreement, which was resolved by an order between the Trustee and Pruitt in part recognizing any valid, perfected and unavoidable senior priority liens as set forth therein [ECF No. 147, 201, 292 ¶¶ 9 – 10], including Pruitt’s Mechanics’ Lien (the “**Agreement**”).

7. On June 7, 2023, the Trustee entered into an Asset Purchase Agreement for the sale of property which included the Decatur Facilities for \$45,250,000 [ECF No. 340], such sale which was approved by order dated June 8, 2023 [ECF No. 372] (“**Sale Agreement**”).

8. On June 23, 2023, Pruitt filed a timely Proof of Claim (#385) in Case 23-10255-KBO in the amount of \$426,703.00.

JOINDER

9. Pruitt objects and joins in Argo Partners II, LLC's Objection to the Trustee's Motion, as Pruitt has not been paid for its perfected Mechanics' Lien, despite the Trustee having made distributions to other secured lenders with an interest in the same collateral in which Pruitt holds an interest. The Trustee should be required to pay Pruitt the full amount of its statutory lien, plus prepetition and post-petition statutory interest before any distributions are made to priority unsecured creditors.

RESERVATION OF RIGHTS

10. Pruitt reserves its right to amend, modify or supplement this Joinder and to raise any additional arguments and objections under applicable law on or before the hearing on August 8, 2024, including, without limitation, any further arguments in support of the Objection and Joinder.

CONCLUSION

WHEREFORE, Pruitt respectfully requests that the Court enter an Order (i) sustaining Argo's Objection and allowing Pruitt's Limited Objection and Joinder; (ii) directing the Trustee to pay to Pruitt the Mechanics' Lien in full with prepetition and post-petition interest; and (iii) granting Pruitt such other and further relief as the Court deems proper.

Date: August 6, 2024

Respectfully submitted,

GELLERT SEITZ BUSENKELL & BROWN, LLC

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